

REMARKS

Claims 1-7 remain in this application. Claim 1 has been amended, as shown above.

I. REJECTIONS UNDER 35 U.S.C. § 112

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner found the phrase "...said presence information being displayed with said user selectable option for use by the user in deciding whether to select said user selectable option" unclear whether the Applicant is conveying that the presence information is displayed prior to the user making a selection or whether the presence information is displayed simultaneous to or on the same page as the user selectable option.

In response, Applicants have amended this phrase in Claim 1 to make clear that the presence information is displayed simultaneous with the user selectable option and that the presence information assists the user in deciding whether to select the user selectable option. As such, Applicants respectfully submit that the 112 rejections have been overcome, and respectfully request the Examiner to withdraw the 35 U.S.C. § 112 rejections to Claims 1-7.

II. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1 and 3-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan in view of Ginsberg (US Patent No. 6,064,730). Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan in view of Ginsberg and Gourraud (US Patent Application Publication No. 2004/0122896 A1). In addition, Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kannan and Ginsberg in view of Hawkes et al. (US Patent Application Publication No. 2002/0055974 A1). Applicant respectfully submits that these rejections are overcome for the exemplary reasons provided below.

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

When a proposed modification or combination of the prior art would render the prior art invention unsatisfactory for its intended purpose or change the principle of operation of the prior art invention, there is no suggestion or motivation to make the proposed modification. As a result, the teachings of the references are not sufficient to render the claims *prima facie* obvious. MPEP § 2143.01.

Applicants respectfully submit that the combination of Kaanan and Ginsberg, alone or in combination with any of the other above references, does not disclose or suggest “*said presence information being displayed simultaneous with said user selectable option, said presence information assisting the user in deciding whether to select said user selectable option,*” as claimed in independent Claim 1.

On Page 4 of the Office Action, the Examiner stated that it would have been “obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kaanan to include the teachings of Ginsberg to allow a customer to view a potential wait time before they accept a place in a queue as taught by Ginsberg.” However, Kaanan specifically teaches “matching the stored query to a CSR based on at least one of the following criteria: content, context, question and qualifications; and storing the query in a service queue capable of being

displayed in the CSR service window by the matched CSR.” (*Kaanan, Paragraph 28*). Thus, it is only after the customer has sent a query (selected the option of on-line or live service) that the server matches the customer with a particular customer service representative (CSR). The server cannot know the wait time for the CSR until the customer has sent the query and matching has occurred. Therefore, it is not possible for the server to display the wait time prior to the user entering the query. If, for arguments sake, the server were to display a general wait time, this wait time may be inaccurate depending on the query that the user subsequently enters, and therefore, may prevent the customer from entering a query, which is undesirable in *Kaanan*. As such, modifying *Kaanan* to include *Ginsberg* would change the principle of operation of *Kaanan* and render *Kaanan* unsatisfactory for its intended purpose.

For at least these reasons, Applicants respectfully submit that Claims 1 and 3-6 are not obvious over the prior art of record. Accordingly, Applicants respectfully request that the Examiner withdraw the § 103 rejection of Claims 1 and 3-6. In addition, the aforementioned Claims 2 and 7 recite all of the exemplary features discussed above with respect to the rejection of Claim 1. Both *Gourraud* and *Hawkes et al.* fail to remedy the above-described deficiencies of *Kannan* and *Ginsberg*, in that neither *Gourraud* nor *Hawkes* teach or describe presence information of customer support representatives being displayed simultaneous with a user selectable option for real time customer support to assist a user in deciding whether to select the user selectable option, so the rejections of Claims 2 and 7 are overcome for at least the same reasons given above with respect to the rejections of Claims 1 and 3-6. In view of the foregoing discussion, Applicant respectfully requests the withdrawal of the § 103 rejections of Claims 2 and 7.

CONCLUSION

For the above reasons, the foregoing amendment places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact the undersigned at the number below.

Respectfully submitted,

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